

Appl. No.: 10/716,238  
Art Unit: 1625

REMARKS/ARGUMENTS

Claims 4, 17-19, 23, 33-37, and 39-72 are currently pending in the instant application. Claims 4, 33-37, 39, 40, 46-53, and 65-72 had been withdrawn. The previous Office Action dated May 27, 2004 included a Request for Restriction, rejections under 35 U.S.C. §112, an obviousness-type double patenting rejection, and objections to certain claims. A Reply was submitted on September 27, 2004. This Supplemental Amendment is being presented as a result of a telephonic interview with the Examiner on December 10, 2004.

The undersigned appreciates the courtesies extended by the Examiner in the telephonic interview, and the indication of allowable subject matter. During the interview, the Examiner informed the undersigned that Restriction Groups II and III can be combined and are allowable should the obviousness-type double patenting rejection be overcome. In reply, Applicants are submitting herewith a Terminal Disclaimer to overcome the rejection, and Applicants gratefully acknowledge the notification of allowable subject matter from both Groups II and III. The Examiner agreed to allow submission of three additional method of treatment claims directed to three separate therapeutic indications from the Markush listing in current claim 42 (see new claims 102-104). Additionally, it was agreed that upon an indication of that current claim 17 is allowable, the objection to claims 18, 19, 55, and 61 would be rendered moot. Lastly, it was agreed that Restriction Group II includes claim 19.

Should the Examiner feel these remarks and amendments do not accurately reflect the substance of the interview, the undersigned invites the Examiner to contact him at her earliest convenience.

For purposes of clarity, Applicants are canceling claims 1-72 and submitting the allowable claim set as new claims 73-107. These are renumbered claims from

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Restriction Groups II (claims 17-19, 23, 41-45, 54-64; note that claim 41 was cancelled in the previous rely) and III (previously withdrawn claims 33-37, 39, 41-45, 65-72; note that claim 41 was cancelled in the previous rely). The following table correlates the new claim set with the previously pending claim set:

| CLAIM NUMBERS |     | CLAIM NUMBERS |     |
|---------------|-----|---------------|-----|
| NEW           | OLD | NEW           | OLD |
| 73            | 17  | 91            | 66  |
| 74            | 18  | 92            | 67  |
| 75            | 54  | 93            | 68  |
| 76            | 55  | 94            | 69  |
| 77            | 56  | 95            | 70  |
| 78            | 57  | 96            | 71  |
| 79            | 58  | 97            | 72  |
| 80            | 59  | 98            | 36  |
| 81            | 60  | 99            | 37  |
| 82            | 61  | 100           | 39  |
| 83            | 19  | 101           | 42  |
| 84            | 62  | 102           | new |
| 85            | 63  | 103           | new |
| 86            | 23  | 104           | new |
| 87            | 33  | 105           | 43  |
| 88            | 34  | 106           | 44  |
| 89            | 35  | 107           | 45  |
| 90            | 65  |               |     |

# **I. DOUBLE PATENTING REJECTION**

The Office Action rejects Claims 17, 41-45, 54 and 56-60 under the doctrine of double patenting over claims 2, 4, and 19-24 of U.S. Pat. No. 6,492,396.

Applicants are submitting a Terminal Disclaimer herewith. Applicants therefore respectfully request withdrawal of the rejection with respect to the claims in Groups II and III.

# **II. OBJECTIONS**

The Office Action objects to Claims 18, 19, 55 and 61 as being dependent upon a

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rejected base claim.

Applicants submit that the objection is rendered moot by the indication that claim 17 is allowable.

### III. CONCLUSION

In view of the above, it is believed that all the claims are in form for allowance, and an early notification to that end is respectfully requested. Entry of the remarks and amendments and reconsideration of the present application is respectfully requested.

Date: December 13, 2004

  
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